

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CRAIG A. GARDNER

Plaintiff,

VS.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

NO. 11-CV-3013-JPH

ORDER ADOPTING REPORT AND RECOMMENDATION

Magistrate Judge Hutton entered a Report and Recommendation on August 2, 2012, recommending Plaintiff's Motion for Summary Judgment be granted and Defendant's Motion for Summary Judgment be denied. (ECF No. 20.) No objection was filed. Therefore, the court **ADOPTS** the Report and Recommendation with one correction. On page thirteen, lines twenty and twenty-one, the Report and Recommendation reads "this court concludes the ALJ's decision is not supported by substantial evidence and is not based on error." That line should read: "this court concludes the ALJ's decision is not supported by substantial evidence and is based on error." Accordingly,

IT IS ORDERED:

1. Plaintiff's Motion for Summary Judgment (**Ct. Rec. 11**) is **GRANTED**. The matter is remanded to the Commissioner for additional proceedings pursuant to sentence four 42 U.S.C. 405(g).

2. Defendant's Motion for Summary Judgment (Ct. Rec. 16) is DENIED.

3. An application for attorney fees may be filed by separate motion.

The District Court Executive is directed to file this Order and provide a copy to counsel for Plaintiff and Defendant. Judgment shall be entered for Plaintiff and the file shall be **CLOSED**.

DATED this 21st day of August 2012.

s/ Rosanna Malouf Peterson
ROSANNA MALOUF PETERSON
Chief United States District Court Judge